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Attorneys for Complainant

BEFORE THE  
PHYSICAL THERAPY BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1D-2000-62820

**DAVID A. HARTWIG**  
P.O. Box 464  
Mi-Wuk Village, CA 95346

Physical Therapy License No. PT-22617,

Respondent.

**STIPULATED DECISION AND  
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

1. An Accusation in case number 1D-2000-62820, was filed with the Physical Therapy Board of California, Department of Consumer Affairs (the "Board") on September 9, 2003, and is currently pending against David A. Hartwig (hereinafter the "respondent").

2. At all times relevant herein, respondent has been licensed by the Physical Therapy Board of California under Physical Therapist License No. PT-22617, issued by the Board to respondent on or about October 30, 1997. Said license will expire on August 31, 2005, unless it is renewed.

3. The Accusation, together with all statutorily required documents, was duly served on the respondent on or about September 9, 2003, and respondent filed his Notice of Defense contesting the Accusation on or about September 22, 2003. A copy of Accusation No. 1D-2000-62820 is

1 attached as Exhibit A and hereby incorporated by reference as if fully set forth.

2 4. The Complainant, Steven K. Hartzell, is the Executive Officer of the Physical Therapy  
3 Board of California and brought this action solely in his official capacity. The Complainant is  
4 represented by the Attorney General of California, Bill Lockyer, by and through Deputy Attorney  
5 General Mara Faust.

6 5. Respondent, David A. Hartwig, P.T. is represented in this proceeding by attorney Mark  
7 H. Harris, whose address is 2207 "J" Street, Sacramento, CA 95816.

8 6. Respondent has received and read Accusation No. 1D-2000-62820 and has fully  
9 discussed it with his counsel.

10 7. Respondent understands the nature of the charges alleged in the Accusation and that, if  
11 proven at hearing, the charges and allegations would constitute cause for imposing discipline upon  
12 his license. Respondent is fully aware of his right to a hearing on the charges contained in the  
13 Accusation, his right to confront and cross-examine witnesses against him, his right to the use of  
14 subpoenas to compel the attendance of witnesses and the production of documents in both defense  
15 and mitigation of the charges, his right to reconsideration, appeal and any and all other rights  
16 accorded by the California Administrative Procedure Act and other applicable laws. Respondent  
17 knowingly, voluntarily and irrevocably waives and gives up each of these rights.

18 8. This stipulation resolves and settles a disputed matter. The admission herein is limited  
19 to this proceeding and any subsequent proceeding between the parties. Respondent acknowledges  
20 that he shall not be permitted to withdraw from this stipulation unless it is rejected by the Physical  
21 Therapy Board of California. Respondent denies and disputes all claims contained in the subject  
22 Accusation, other than those specific admissions relating to the seventh and eleventh causes for  
23 discipline.

24 9. Complainant amends the seventh and eleventh causes for discipline to read that  
25 respondent's supervision of physical therapy assistants in the treatment of the patients constituted  
26 inadequate supervision in violation of Title 16 C.C.R. section 1389.44. Respondent admits that he  
27 engaged in conduct that constitutes grounds for discipline in California, under Title 16 C.C.R.  
28 section 1389.44, as alleged in the seventh and eleventh causes for discipline in Accusation No. 1D-

2000-62820 and respondent agrees that he has thereby subjected his license to disciplinary action. Respondent agrees to be bound by the Board's Disciplinary Order as set forth below. Complainant dismisses the first through sixth, eighth through tenth, and twelfth through seventeenth causes for discipline.

10. Based on the foregoing admissions and stipulated matters, the parties agree that the Board shall, without further notice or formal proceeding, issue and enter the following order:

#### DISCIPLINARY ORDER

Based on the foregoing recitals, IT IS STIPULATED AND AGREED THAT, David A Hartwig, P.T., holder of Physical Therapy License No. PT-22617, shall have his Physical Therapy License revoked, with the revocation stayed and he will be placed on three (3) years probation.

1. License Suspension. The respondent's PT License number shall be suspended for five days, and due to mitigating circumstances, that suspension shall be stayed.

2. Cost Recovery. The respondent will be ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$4,430.00. However, should the respondent pay \$2,500.00 within thirty days of the effective date of this decision, the balance of \$1,930.00 will be waived by the Board.

The respondent will normally be ordered to make the reimbursement within 30 days from the effective date of the decision unless the Board agrees in writing to payment by an installment plan (such as monthly for a year). Failure to make the ordered reimbursement, or any agreed upon payment, may constitute a violation of the probation order.

3. Obey All Laws. Respondent shall obey all federal, state and local laws, and statutes and regulations governing the practice of physical therapy in California.

4. Compliance With Orders of a Court. The respondent shall be in compliance with any valid order of a court. Being found in contempt of any court may constitute a violation of probation.

5. Compliance With Criminal Probation and Payment of Restitution. Respondent must not violate any terms and conditions of criminal probation and be in compliance with any restitution ordered.

6. Quarterly Reports. Respondent shall submit quarterly declarations under penalty of

perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

7. Probation Monitoring Program Compliance. Respondent shall comply with the Board's probation monitoring program.

8. Interview With the Board or its Designee. Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice.

9. Notification of Probation Status to Employers. The respondent shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the accusation and the stipulated settlement to the employer. The respondent shall obtain written confirmation from the employer that the documents were received. If the respondent changes, or obtains additional employment, the respondent shall provide the above notification to the employer and submit written employer confirmation to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.

10. Notification of Change of Name or Address. The respondent shall notify the Board, in writing, of any and all changes of name or address within ten days.

11. Prohibited Use of Aliases. Respondent may not use aliases and shall be prohibited from using any name which is not his legal-recognized name or based upon a legal change of name.

12. Work of Less Than 20 Hours Per Week. If the respondent works less than 192 hours in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The respondent shall notify the Board if he works less than 192 hours in a three month period.

13. Tolling of Probation. The period of probation shall run only during the time respondent is practicing within the jurisdiction of California. If, during probation, respondent does not practice within the jurisdiction of California, respondent is required to immediately notify the probation monitor in writing of the date that respondent's practice is out-of-state, and the date of return, if any. Practice by the respondent in California prior to notification to the Board of the respondent's return

will not be credited toward completion of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.

14. Violation of Probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. Cease of Practice Due to Retirement, Health or Other Reasons. Following the effective date of this probation, if respondent ceases performing as a physical therapist due to retirement, health or other reasons respondent may request to surrender his license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms and conditions of probation shall be tolled until such times as the license is no longer renewable, the respondent makes application for the renewal of the tendered license or makes application for a new license.

16. Completion of Probation. Upon successful completion of probation, respondent's license or approval shall be fully restored.

17. Written Exam on the Laws Regulations Governing the Practice of Physical Therapy. Within 90 days of the effective date of this decision, respondent shall take and pass the Board's written examination on the laws and regulations governing the practice of physical therapy in California. If respondent fails to pass the examination, respondent shall be suspended from the practice of physical therapy until a repeat examination has been successfully passed.

18. Practice or Performance of Physical Therapy While on Probation. It is not contrary to the public interest for the respondent to perform physical therapy under the probationary conditions specified in the disciplinary order.

19. Restriction of Practice. Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a plan of practice, with standard hours of operation, types of employee and their assigned duties.

20. Restriction of Practice - No Employment or Supervision of Physical Therapy Student Interns. Respondent shall not supervise more than one physical therapy student intern, at any one time, during the entire period of probation. .

21. Probation Monitoring Costs. All costs incurred by the Board for probation monitoring during the entire period of probation shall be reimbursed by respondent with a maximum monthly amount of \$175.00. Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order. In addition to the filing of an Accusation or the issuance of an administrative citation, the filing of criminal charges shall be sought when appropriate.

ACCEPTANCE

I have carefully read and fully understand this Stipulated Decision and Disciplinary Order and have fully discussed it with my attorney Mark H. Harris. I understand that by signing this Stipulated Decision and Disciplinary Order, I am waiving my right to a hearing and I enter into this Stipulation voluntarily, knowingly and intelligently and agree to be bound by its terms and conditions. I further agree that a facsimile copy of this Stipulated Decision and Disciplinary Order, including facsimile copies of signatures, may be used with the same force and effect as the originals.

DATED: 05/11/2004.

Original Signed By:  
DAVID A. HARTWIG  
Respondent

I have read and fully discussed with the Respondent, David A. Hartwig, P.T., the terms and conditions and other matters contained in the above Stipulated Decision and Disciplinary Order. I approve its form and content.

DATED: 05/11/2004

Original Signed By:  
MARK H. HARRIS  
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California, Department of Consumer Affairs.

DATED: 05/20/2004.

BILL LOCKYER, Attorney General  
of the State of California

Original Signed By:  
MARA FAUST  
Deputy Attorney General  
  
Attorneys for Complainant

**BEFORE THE  
DIVISION OF LICENSING  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2000-62820

**DAVID A. HARTWIG, P.T.**  
P.O. Box 464  
Mi-Wuk Village, CA 95346

Physical Therapy License No. PT-22617,

Respondent.

**DECISION AND ORDER**

The attached Stipulated Decision and Disciplinary Order is hereby adopted by the Physical therapy Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on the 26<sup>th</sup> day of July, 2004

It is so ORDERED June 24, 2004.

Original Signed By: Don A. Chu, PhD, President  
FOR THE DIVISION OF LICENSING  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS